

BYLAWS

ACES BOARD

STATE OF ALABAMA

Article I -- Creation

In accordance with Title 16, Sections 33C-1 through 33C-9, Code of Alabama, 1975 (as amended) ("Code"), the Legislature of Alabama created the Wallace-Folsom College Savings Investment Plan as an agency and instrumentality of the State to assist individuals in paying costs and expenses of attending colleges and universities. The Plan includes the Alabama College Education Savings ("ACES") Program which is established as one college savings alternative whereby contributors open savings accounts according to savings agreements for the payment of qualified education costs for a designated beneficiary at eligible educational institutions. ACES is marketed as the CollegeCounts 529 Fund ("CollegeCounts").

The Board of Directors ("Board") is established to create rules, regulations and guidelines for the program.

Article II -- Membership

Section 1. Composition. (§ 16-33C-4).

The Board shall consist of ten (10) members as follows:

Appointed members include:

- The Lieutenant Governor, or his or her designee
- The Executive Director of the Alabama Commission on Higher Education (ACHE), or his or her designee
- The State Treasurer
- The Chancellor of the Alabama Department of Postsecondary Education, or his or her designee
- One person appointed by the Council of College and University Presidents
- One person appointed by the Speaker of the House of Representatives
- One person appointed by the Lieutenant Governor
- One person appointed by the State Treasurer
- Two persons appointed by the Governor

Section 2. Qualifications for Appointed Board Members. (§16-33C-4(c))

An appointed Board member shall possess knowledge, skill and experience in business or financial matters commensurate with the duties and responsibilities of the plan. No person holding a full-time office or position of employment with the state, any county or municipality in the state, any educational institution, or any instrumentality, agency or subdivision of the forgoing shall be eligible for appointment to the Board.

Section 3. Duties. ((§16-33C-5)

The Board, as agents of the State, have the following powers, which include, but are not limited to:

- To adopt and amend bylaws;
- To adopt rules and regulations;
- To invest funds in the Trust Fund;
- To execute contracts and other necessary documents;
- To define the terms and conditions of and enter into CollegeCounts savings agreements
- To contract for necessary goods and services for periods not exceeding five years; except that professional services contracts awarded by the Board may be for periods not exceeding ten years
- To solicit and accept monetary gifts;
- To delegate to the State Treasurer the responsibilities of the day-to-day administration of the CollegeCounts Program
- To prepare reports for distribution to the Governor, Lieutenant Governor, and Speaker of the House of Representatives;
- To establish other policies, procedures and criteria to administer the CollegeCounts Program

Section 4. Term. (§16-33C-4(b))

Each appointed member serves for a term of four years and shall be eligible for reappointment, and shall serve until a successor is appointed. Any person appointed to fill a vacancy shall be appointed in a like manner and shall serve for only the unexpired term. Ex officio members shall serve for the term of their position.

Article III -- Organization

Section 1. Officers and Staff.

Chair. (§16-33C-5, §16-33C-4(e), §16-33C-10)

The State Treasurer serves as the Chair of the Board and presides at Board meetings. Duties and responsibilities of the Chair shall include:

- Day-to-day administration of CollegeCounts;
- Provide facilities of the State Treasurer's office in the administration of CollegeCounts and to serve as the official location of CollegeCounts;
- Approve marketing materials produced for CollegeCounts;
- Distribute agenda and board materials to the Board;
- Publicly post Board Meeting notices;
- Rule on all matters relating to the length of commentary and who shall be heard at meetings, but such rulings shall be subject to change upon a majority vote of the Board members present;
- Represent the Board before the Legislature and other public forums.
- Serve as, or designate the official spokesperson for CollegeCounts.

Vice-Chair.

The Chair shall appoint from the Board's members a Vice-Chair. The Vice-Chair shall hold office for a term of twenty-four months.

The Vice Chair shall be a member of the Board and shall perform the duties and have the powers of the Chair during the absence or disability of the Chair. At the end of the term or upon resignation, a Vice Chair will be appointed at the next duly called meeting of the Board.

Board Secretary.

The Director of College Savings Programs ("Director") shall serve as Secretary to the Board. Duties include:

- To attend all meetings of the Board;
- To keep a register or roll of the members, to call the roll at the direction of the Chair, and to confirm whether a quorum is present.
- To assist the Chair and Committee Chair(s) on all matters related to CollegeCounts.

Section 2. Committees and Advisory Council.

The Board, by resolution of a majority of the members of the Board, may designate and appoint one or more committees to represent the Board, and perform other responsibilities as the Board deems suitable. Committee members may be appointed by the Chair or may volunteer to serve, and shall serve at the pleasure of the Board.

Meetings of committees shall be called by the committee chair of the particular committee or any two members of the committee. The Chair shall conduct each committee meeting and will provide each committee member with an agenda prior to meetings; and minutes of each committee meeting will be prepared and submitted to the Board.

Investment Committee. The Investment Committee shall review recommended investment changes to the advisor and direct portfolios of the CollegeCounts 529 Fund. The committee shall consist of a minimum of 3 members and the Board Chair will serve as chair of the committee. Each committee member shall be appointed by the Chair and serve for a term of twenty-four months. In instances where immediate action is necessary, the committee is hereby authorized by the Board to make investment related decisions regarding the portfolios. Such action will be presented to the Board at its next meeting for ratification.

Article IV -- Meetings**Section 1. Regular Meetings.**

Regular meetings of the Board shall be held at least quarterly.

Section 2. Emergency or Special Meetings.

Emergency or special meetings of the Board may be called by the Chair, or upon written request of a majority of members of the Board.

Section 3. Meetings Open to the Public.

All regular, special and emergency meetings of the Board shall be open to the public as required by law.

Section 4 – Public Recording of Meeting

All persons attending the Board meeting may openly record the meeting. The recording of the meeting cannot disrupt the conduct of the meeting. Neither the public nor the media have the right to record Executive Sessions.

Requests to record must be delivered to the Treasurer in writing or by electronic mail 24 hours in advance. The requests are for informational and planning purposes and do not diminish the right of the public to record a meeting.

- Each recording citizen should sign in with current address and telephone numbers at the time of entry to the meeting.
- Equipment should be in place thirty minutes in advance of the scheduled meeting time. Equipment should be in a stable, secure and non-disruptive position during the meeting. Recording equipment will be placed as directed by Treasury staff.
- All recording equipment and persons operating same should remain at a non disruptive distance from the table where Board members are seated.
- Broadcasting of the meeting to the internet via web casting, web cameras or any other device should be requested in writing or by electronic mail 48 hours in advance.
- All audio and video recording should cease immediately upon adjournment of the meeting except for brief question and answer session that may be allowed and announced by the Board at the time of adjournment.
- All video and audio recording devices should be in plain view and easily identifiable to Board members and treasury staff. Possession or use of secret or undisclosed recording devices is strictly prohibited and will be reason for ejection from the meeting.

Section 5. Meetings by Telephone or Other Electronic Media.

Members of the Board may participate in a meeting of such Board or committee by means of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other at the same time. However, members participating in a meeting of the Board or committee by means of a conference telephone or other communications equipment shall not count toward a quorum or be allowed to vote.

Telephone conference calls among a quorum of the Board or a committee is strictly limited to receiving objective data, investment performance results or requesting such other objective data delivered without opinion, discussion or recommendation and that do not involve the deliberative process.

Section 6. Notice of Meetings.

Regular Meetings.

The Board shall submit notice of all regular meetings in accordance with the procedures and requirements established by the Alabama Secretary of State. Notice must be submitted to the Secretary of State in sufficient time for the Office of the Secretary of State to receive the notice of a meeting, process the notice information, issue a confirmation of receipt to the Board, and post the notice on the Internet website of the Office of the Secretary of State for at least seven calendar days prior to the day of the meeting.

Notice shall include the time, date and place of meeting. A preliminary agenda shall be posted as soon as practicable in the same manner as the notice. The Board may discuss at its meeting additional matters not included in the preliminary agenda. Until a preliminary agenda is posted, the notice shall include a general description of the nature and purpose of the meeting.

Special or Emergency Meetings. Notice of Special or Emergency called meetings shall be submitted to the Secretary of State as soon as practicable after the meeting is called and in no event less than one hour before the meeting is scheduled to begin, unless such notice is prevented by emergency circumstances requiring immediate action to avoid physical injury to persons or damage to property.

Committee Meetings. Notice of Committee Meetings will be submitted to the Secretary of State to be posted not less than 24 hours prior to the meeting.

All meeting notices will be posted on the Treasury website.

Section 7. Executive Sessions.

At any Board meeting, the Board may proceed in Executive Session as authorized by law upon a vote of majority of the entire membership of the Board. Prior to proceeding in Executive Session, the Chair shall announce to the public the general topic of the Executive Session. Only those persons invited by the Board may be present at an Executive Session. Executive sessions may be held by Board only for the following purposes:

- To discuss the general reputation and character, physical condition, professional competence, or mental health of individuals. Discussions of job performance are not appropriate and are generally prohibited in Executive Session except as may be specifically allowed by the Law for certain public employees. The Board will not discuss job performance of any employee in Executive Session without advance consultation with legal counsel and the Board agreement that such discussion is allowed by law.
- When expressly allowed by federal law or state law, to consider the discipline or dismissal of, or to hear formal written complaints or charges brought against a public employee, a corporation, partnership, or other legal entity subject to the regulation of the Board.
- To discuss with the Board attorney the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated if the Board pursues a proposed course of action, or to meet or confer with a mediator or arbitrator with respect to any litigation or decision concerning matters within

the jurisdiction of the Board.

- To discuss security plans, procedures, assessments, measures, or systems, or the security or safety of persons, structures, facilities, or other infrastructures, including, without limitation, information concerning critical infrastructure, as defined by federal law, and critical energy infrastructure information, as defined by federal law, the public disclosures of which could reasonably be expected to be detrimental to public safety or welfare.

Section 8. Executive Session Procedure.

Before the Board may convene an executive session, it shall utilize the following procedure:

- A quorum of the Board must first convene a regular meeting.
- A quorum vote of the members of the Board must adopt, by recorded vote, a motion calling for the executive session and setting out the purpose of the executive session.
- Prior to voting to convene an executive session, the Board shall receive a written opinion or oral declaration reflected in the minutes from Board's counsel that the matter to be presented during the executive session falls within one of the allowed exceptions under the Alabama Open Meetings Act.
- The vote of each member shall be recorded in the minutes.
- Prior to calling the executive session to order, the presiding officer shall state whether the Board will reconvene after the executive session and, if so, the approximate time the body expects to reconvene.

ARTICLE V -- OPERATION OF THE BOARD.

Section 1. Actions of the Board.

The Board shall act by resolution or motion at a duly called meeting of the Board and no individual member of the Board shall exercise individually any administrative authority with respect to the Board. No individual member of the Board shall make a statement of Board policy which purports to be that of the Board unless the Board shall have adopted such policy, but no one shall be prohibited from stating his or her personal opinions, provided they are clearly identified as such.

Section 2. Rules of Order.

The rules contained in Roberts' Rules of Order (Revised) shall govern in all cases to which they are applicable and in which they are not inconsistent with the bylaws of the Board.

Section 3. Agenda.

The prepared agenda with appropriate information shall be sent by the Chair to each member of the Board in advance of any regular meeting of the Board. This agenda shall govern the order of business for the meeting.

Section 4. Quorum. (§16-33C-4(e.))

The quorum of members necessary for the Board to transact business shall be a simple majority of the Board which is six members physically present at the meeting.

Section 5. Voting.

All votes of the Board shall be made during the open or public portion of a meeting for which notice has been provided. The Board may not vote by secret ballot. Voice votes may be allowed. No votes shall be taken in executive sessions.

No person except a regular member of the Board or a duly authorized designee shall be entitled to vote in determining the action of the Board at any time. Proxy voting is not allowed.

A roll call vote shall be taken upon the request of any Board member. The names of the Board members shall be called and each member shall vote "yes" or "no" at such time unless he/she chooses to abstain.

An abstention from a voice vote must be declared by the abstainer immediately before or immediately after the voice vote in order to be reflected in the official minutes.

Section 6. Minutes.

The Secretary shall have prepared minutes of the proceedings of the Board and committee meetings. A copy of the minutes of each meeting of the Board or committee shall be transmitted to each Board member for review prior to approval at the succeeding meeting. The minutes shall not be considered official unless and until approved by the Board or committee.

The Board shall maintain accurate records of its meetings, excluding Executive Sessions, setting forth the date, time, place, members present or absent, and actions taken at each meeting. The minutes of the meeting will be signed by the Chair after approval by the Board.

Section 7. Compensation. §16-33C-4(d.).

Members of the Board shall serve without compensation, but shall be reimbursed for each day's official duties of the Board at the same per diem rate as is paid the employees of the state.

Section 8. Personal Attendance at all Meetings.

Board members shall make every attempt to personally attend all meetings unless prevented from doing so by disability or other causes beyond their control. No person, except a duly authorized designee may attend any meeting of the Board as a substitute for any Board member.

Section 9. Appearances Before the Board.

Individuals or groups who wish to appear before the Board shall complete information on a "Sign In" sheet including name, phone number and nature of the matter to be discussed. If the matter is applicable for consideration, the Chair, at his or her discretion, may approve the request and allot a reasonable time for presentation. At any meeting, the Chair may recognize unscheduled appearances before the Board by individuals or groups. The Chair shall limit presentations as necessary to maintain the timely conduct of business by the Board.

Section 10. Public Records.

The Board shall maintain accurate records of its meetings, excluding executive sessions, setting forth the date, time, place, members present or absent, and action taken at each meeting. The

records of each meeting shall become a public record and be made available to the public as soon as practicable after approval, except as otherwise provided by law.

CollegeCounts records and minutes of the Board meetings will be available upon completion of a "Public Records Request Form" by the requesting party. Each request will be processed as soon as practical.

Section 11. Conflict of Interest.

No Board member shall vote on, or participate in, the discussion or consideration of any matter coming before the Board in which such member, personally or through family connections or business associations, has any direct or indirect pecuniary interest, including, but without limitation thereto, decisions of the Board concerning the investment of moneys constituting part of the trust fund in any deposit or obligation of any bank or corporation in which such Board member may have such an interest. If there shall be brought before the Board any matter in which a member shall have any interest which may conflict with his or her duties as a Board member, he or she shall immediately make a complete verbal disclosure to the Board of such interest and shall thereafter withdraw from participation in any deliberation and decision of the board with respect to such matter.

Ownership of a CollegeCounts account shall not be considered a conflict of interest.

Section 12. The Alabama Ethics Law

Board members serve in the capacity of appointed public officials and are therefore required to annually file the "Statement of Economic Interests" form. Board members will be notified in January of each year

Article VI Amendments

Section 1. Amendment. These Bylaws may be amended at any meeting of the Board by a majority vote of the members present or amended and ratified at the next duly called meeting of the Board.

Section 2. Effective Date. Amendments shall go into effect immediately upon their adoption, unless the motion to adopt specifies a time for the amendment to go into effect, or unless the Board has previously adopted a motion to that effect.

It being the desire of the Board to meet its responsibilities to the State of Alabama, and, in the most efficient and conscientious manner possible, to discharge its duties under the law, the CollegeCounts Board does by resolution hereby adopt these bylaws this ____ day of ____, 2012, to be effective immediately.

Young Boozer, Chair